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Eileen Wenger Tutt
Special Advisor to the Secretary
California Environmental Protection Agency,
Office of the Secretary
1001 I Street
Sacramento, CA 95814

Dear Ms. Tutt:

I am writing to express strong support for the underlying objectives and principles put forth in the Climate Action Team Draft Report to the Governor and Legislature. The Draft Report has laid out a solid general process for achieving the targets for reducing greenhouse gas emissions established by the Governor's landmark Executive Order # S-3-05, as well as identifying a number of key next steps which deserve the strong backing of the public and private sectors.

Overall, the report is to be applauded for its comprehensive treatment of the complexities surrounding the regulation of greenhouse gases [GHGs] and its "out of the box" thinking in terms of emissions constraints and trading schemes. The climate problem is fundamentally a long-term one, and although the need for action in reducing emissions is immediate, the interests of the economy and the public are best served by a careful consideration of all available response options, and not simply a rush to replicate other regimes that may not prove the most efficient and effective in the long run for California.

In my comments below I will focus on a few recommendations that could help promote the start of a market for emissions reductions well in advance of any legislative action necessary to impose formal emissions controls, as well as a few particular recommendations of the Report that deserve strong support.

Developing a market in advance of major legislation

First, and foremost, the private sector needs strong signals from the State that some form of mandatory carbon constraints are imminent, whether it be a formal cap and trade scheme, a performance-standard approach, or any of the other approaches identified in the Draft Report. The Governor's targets themselves do give such a signal to the private sector because they enjoy bipartisan political backing, but action to convert these voluntary targets into binding commitments deserves the strongest possible support.

Second, the private sector also needs assurance that regulated companies and entities will be allowed to use flexible mechanisms – namely emissions trading and offsets – to meet a significant part of their targets.

Strong signals from the State on the above two concerns alone could promote the start of a market for project-based emissions reductions [i.e. carbon credits] ahead of legislative action or any state appropriations. Carbon abatement projects create emissions reductions outside of a formal cap or jurisdictional baseline, as the emissions reductions are calculated at the project activity level. Currently there is little demand for carbon credits in California and thus little incentive for project developers to undertake emissions reduction projects, except for certain renewable energy projects operating in the green power markets. However, with strong signals of impending carbon constraints and the availability of flexible response options, the incentives will quickly shift in favor of more rapid development of such projects and encourage the private sector to begin “prospecting” for carbon reductions.

We saw this take place in the Kyoto framework where the project markets of the Clean Development Mechanism and Joint Implementation were active many years before ratification of the Kyoto Protocol, and also see this today in the nascent trading of offset projects already occurring in the Northeastern states, well in advance of the 2009 start date of the RGGI scheme. Furthermore, it would be especially prudent to give these signals to the market today given that the development times of many GHG projects are of the order of the time intervals being suggested in the Draft Report for enacting mandatory emissions constraints.

The only additional guidance the State should give to kick start the project market here in California is that early action on the part of project developers and their sponsors among the potentially regulated companies will be recognized in any subsequent implementation of mandatory emission constraints. The State is familiar with this argument, having chartered the California Climate Action Registry to document early action on the part of companies in the state which reduce their direct emissions. However, the Registry is primarily concerned with the direct/indirect emissions of entities [which provide the foundation for allowance trading in cap-and-trade schemes], and not certifying project-based emissions reductions. Encouraging the latter function as well would solidify the link to early action credit for those companies and entities that are considering investing in GHG reduction projects.

Clearly, credit for early action in the project markets will require a set of standards for determining the quality and integrity of the resulting emissions reductions. The project markets, in particular here in the US, are full of credits of questionable accounting and environmental integrity, so care does need to be taken to develop a robust set of criteria for determining what project credits should be eligible for early action credit. Of particular importance for the integrity of the project markets are the reliability of the project emissions boundaries, baseline calculation methodologies, and additionality. That being said, we also must guard against setting eligibility standards that are too strict and thus choke off the development of the market before it even starts. A proper balance can be found in the emerging standards for “voluntary carbon units” or VCUs, which ensure the strictest level of confidence in the emissions reduction baselines and calculations while minimizing bureaucratic hurdles and barriers.

With these steps in place and firm signals from the State regarding impending carbon constraints, the use of flexibility mechanisms, and recognition of early action for abatement projects, the

market should have all the components necessary to activate, and thus ultimately begin reducing greenhouse gas emissions well ahead of any actual imposition of caps or constraints.

General Recommendations

There are a number of specific recommendations from the Draft Report that deserve particular attention and support:

Climate Science Research

The ongoing scientific research into climate impact assessments and scenarios deserves strong support and continued funding from the State. The scientific community deserves all the resources it needs to continue its important work into identifying the dangers posed by climate change to the State of California and its environment, as well as continuing to contribute to the international efforts to determine what exactly is “dangerous” climate change and the uncertainty levels and thresholds behind these findings.

I would also encourage future versions of the scientific findings report, “Possible Scenarios of Climate Change in California: Summary and Recommendations” to include an assessment of the impacts of climate change on California’s offshore/coastal ecosystems. I was struck by the absence of such an analysis in the current version, given the importance of the ocean and the coast to the economy, environment, and identity of California.

Mandatory Reporting

The Draft Report’s recommendation for mandatory reporting of direct and indirect emissions from companies and installations across the State deserves the strongest possible support. The old adage that “you can only manage what you can measure” is nowhere more relevant than with greenhouse gas emissions. Beyond being necessary for developing emissions baselines and allocations levels for a cap and trade scheme, mandatory reporting is vital in giving the public and the investment community a more complete picture of the financial performance of companies and industries, and should alone encourage many of the forward looking companies in California to take steps to reduce their emissions ahead of any requirements.

After a more detailed economic impact assessment of a mandatory reporting law, it may be necessary to consider helping regulated entities with reporting costs.

The California Climate Action Registry also deserves the strong support of the State and the public as the recommendations from the Draft Report are converted into State policy. CCAR has done a commendable job in developing the protocols and infrastructure underlying emissions reporting and registration, and also has done much to keep California at the forefront of greenhouse gas mitigation policy worldwide.

Broad Coverage and ARB/Pavley Rules

The Draft Report is to be commended for recognizing that the broadest possible coverage of sectors is to be desired for any mandatory emissions constraints. When combined with flexible mechanisms this will help distribute the costs of complying with reduction targets most efficiently and minimize the chances of the State ending up in a role where it has to pick winners among different low-carbon technologies.

Along these lines, the State should consider allowing offsets and external trading into the landmark Pavley regulations for tailpipe emissions, although the current momentum of the Air Resources Board rules must be respected in light of the pending court case. Allowing external trading into Pavley would definitively break the link between fuel economy and carbon emissions, thus increasing the chances that the rules will survive the court challenge.

In general, flexibility and unrestricted trading of allowances and offsets are to be encouraged to ensure that the private sector has all the available response options at its disposal, and to allow for more complete price discovery for emissions reduction technologies and strategies. Offsets should also be endorsed as an integral part of any future carbon constraints, as they provide a way to engage sectors that otherwise do not fall easily within a cap.

Thank you very much for accepting these comments as part of the public review of the Draft Report to the Governor and the Legislature.

Regards,

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cc: Secretary Alan Lloyd, Deputy Secretary Anne Baker